

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 State Bar No. 91740
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5556
5 Facsimile: (415) 703-5480
6 *Attorneys for Complainant*

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-645**

12 **JENNIFER COLLINS MILNE**
13 **1778 Ruth Drive**
14 **Pleasant Hill, CA 94523**

A C C U S A T I O N

15 **Registered Nurse License No. 713931**

16 Respondent.

17 Complainant alleges:

PARTIES

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about October 15, 2007, the Board of Registered Nursing issued Registered
22 Nurse License Number 713931 to Jennifer Collins Milne (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on May 31, 2011, unless renewed.

JURISDICTION

25 3. This Accusation is brought before the Board of Registered Nursing (Board),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.
28

1
2 STATUTORY PROVISIONS

3 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
4 that the Board may discipline any licensee, including a licensee holding a temporary or an
5 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
6 Nursing Practice Act.

7 5. Section 2764 of the Business and Professions Code provides, in pertinent part, that
8 the expiration of a license shall not deprive the Board of jurisdiction to proceed with a
9 disciplinary proceeding against the licensee or to render a decision imposing discipline on the
10 license. Under section 2811(b) of the Code, the Board may renew an expired license at any time
11 within eight years after the expiration.

12 6. Section 2761 of the Business and Professions Code, in pertinent part, states:

13 "The board may take disciplinary action against a certified or licensed nurse or deny an
14 application for a certificate or license for any of the following:

15 "(a) Unprofessional conduct. . .

16 ". . .

17 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
18 functions, and duties of a registered nurse, in which event the record of the conviction shall be
19 conclusive evidence thereof.

20 . . .

21 7. Section 2762 of the Business and Professions Code, in pertinent part, states:

22 "In addition to other acts constituting unprofessional conduct within the meaning of this
23 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
24 chapter to do any of the following:

25 ". . .

26 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
27 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
28 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof.

8 . . .
9 8. Section 490 of the Business and Professions Code provides, in pertinent part, that a
10 board may suspend or revoke a license on the ground that the licensee has been convicted of a
11 crime substantially related to the qualifications, functions, or duties of the business or profession
12 for which the license was issued.

13 9. Section 125.3 of the Business and Professions Code provides, in pertinent part, that
14 the Board may request the administrative law judge to direct a licentiate found to have committed
15 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
16 investigation and enforcement of the case.

17 10. California Code of Regulations, title 16, section 1444 provides, in pertinent part, that
18 a conviction or act shall be considered to be substantially related to the qualifications, functions
19 or duties of a registered nurse if to a substantial degree it evidences the present or potential
20 unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or
21 welfare.

22 FIRST CAUSE FOR DISCIPLINE

23 (Conviction of a Crime)

24 11. Respondent is subject to disciplinary action under Business and Professions Code
25 sections 490 and 2761(f) in that respondent was convicted of a crime substantially related to the
26 qualifications, functions or duties of a registered nurse, the circumstances are as follows:

27 a. On or about September 23, 2009, in a criminal proceeding entitled People of the State
28 of California v. Jennifer Collins Milne in Contra Costa County Superior Court, Case No. 142814-

1 3, the respondent was convicted by her plea of nolo contendere for violating Vehicle Code section
2 23152(b) (driving under the influence with a blood alcohol content of 0.08 or less), a
3 misdemeanor.

4 b. The circumstances surrounding the conviction are that on or about January 9, 2009, at
5 0055 hours Pleasant Hill Police officers were dispatched to the area of Contra Costa Boulevard
6 near Golf Club Road to investigate a non-injury collision. Upon making contact with the
7 respondent, one of the officers noticed that the respondent was unsteady on her feet and he
8 smelled the strong odor of an alcoholic beverage as he spoke to her. In response to a question
9 whether or not she had consumed alcoholic beverages, the respondent replied two beers. The
10 officer asked respondent to perform a series of field sobriety tests and the officer administered a
11 Preliminary Alcohol Screening (PAS) test. The respondent's breath sample result from the PAS
12 test was .307 %. Based on the results of the field sobriety tests, the PAS test, and the officer's
13 personal observations of the respondent, the officer determined that she was driving while under
14 the influence of alcohol and placed her under arrest.

15 c. On or about September 23, 2009, the court placed respondent on court probation for
16 three years; ordered her to serve 10 days in the county jail, and ordered her to pay fines in the
17 amount of \$1,628.00, and ordered her to enroll and complete a nine month First Offenders
18 Program.

19 SECOND CAUSE FOR DISCIPLINE
20 (Use of an Alcoholic Beverages to an Extent or in a
Manner Dangerous or Injurious to Herself or Others)

21 12. Respondent is subject to disciplinary action under Business and Professions Code
22 section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions
23 Code section 2762(b) in that on or about January 9, 2009, respondent used alcoholic beverages to
24 an extent or in a manner dangerous or injurious to herself or others, as referenced in paragraph 11,
25 above.

26 / / /

27 / / /

28 / / /

THIRD CAUSE FOR DISCIPLINE

(Conviction of an Alcohol Related Crime)

13. Respondent is subject to disciplinary action under Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions Code section 2762(c) in that respondent was convicted of a crime involving the consumption of alcoholic beverages, as referenced in paragraph 11, above.

PRAYER

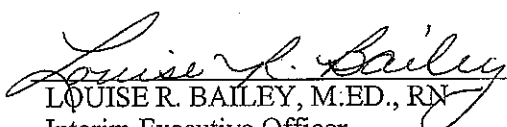
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 713931, issued to Jennifer Collins Milne

2. Ordering Jennifer Collins Milne to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: Ce/17/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2010400557
20285550.doc